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SECRETARY

IN RE: PROPOSED REVISIONS TO THE  
PRICE REGULATION AND LOCAL  
COMPETITION PLAN.

DOCKET 28590

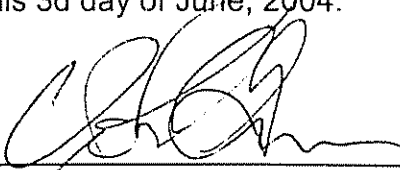
**NOTICE OF STAFF PROPOSAL**

Attached hereto is the Staff's proposed Alabama Telecommunications Regulation Plan ("ATRP") which, if adopted, will supersede the existing Local Competition Plan. The ATRP will likely be considered by the Commission at its monthly meeting in July 2004.

The ATRP is being generally distributed for informational purposes. It is anticipated that a workshop and comment cycle will be established commensurate with the adoption of the ATRP. Accordingly, the substantive aspects of the plan should not be discussed with the Commission or its staff until such time as the plan is formally approved and a workshop is established.

The workshop/comment cycle will be the vehicle by which interested parties will have an opportunity for input.

DONE at Montgomery, Alabama, this 3d day of June, 2004.

  
\_\_\_\_\_  
John A. Garner  
Administrative Law Judge

c: All Parties of Record

## **STAFF PROPOSED ALABAMA TELECOMMUNICATIONS REGULATION PLAN**

The Staff Proposed Alabama Telecommunications Regulation Plan (TELCOM REG PLAN) is applicable to those telecommunications service providers, defined herein, regulated by the Alabama Public Service Commission. Recognizing that there are distinct regulatory requirements pertinent to each type service provider, the Commission Staff (hereafter referred to as “the staff”) has separated the Regulation Plan into parts applicable to each. Part I applies to BellSouth Telecommunications Company, Parts II and III apply to other incumbent local exchange carriers (ILECs), Part IV applies to competitive local exchange carriers (CLECs) and Part V applies to toll carriers and toll resellers.

Each Part of the TELCOM REG PLAN stands on its own and the Commission may approve all or selected parts of the plan at its discretion.

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### **PART I**

#### **BELLSOUTH PRICE FLEXIBILITY PLAN**

##### **1. APPLICABILITY OF THE BELLSOUTH PRICE FLEXIBILITY PLAN**

The Staff Proposed BellSouth Price Flexibility Plan (“the Bell Plan” or the “Plan”) for BellSouth Telecommunications (“BellSouth”) will apply to all telecommunications services offered by BellSouth and regulated by the Alabama Public Service Commission (hereinafter referred to as “the Commission”).

##### **2. DEFINITIONS**

- A. “Basic Vertical Services” are those switching features and their variants that, in the Commission’s assessment, have gained such universal customer appeal that they are no longer considered discretionary for a large percentage of the customer base.

- B. “Bundled Services” are packages of regulated services offered by BellSouth at one price. Requests to bundle services shall only consist of regulated services and the associated price for the bundled regulated services.
- C. “Contract Service Arrangement” (“CSA”) is an arrangement wherein BellSouth provides services pursuant to a contract between BellSouth and customers in Tier I where competitive alternatives are known to exist and in Tier II and Tier III in response to a competitive alternative or other unique circumstances<sup>1</sup>. Such arrangements include situations in which the services are not otherwise available through BellSouth’s tariffs, as well as situations in which the services are available through BellSouth’s tariffs, but BellSouth offers those services at prices other than those specified in BellSouth’s tariffs.
- D. “Customer Value Program” is the offering of volume and/or term discounts by BellSouth to eligible customers in BellSouth’s service area. Customers subscribing to such programs will receive ongoing benefits for a duration that may exceed ninety (90) calendar days.
- E. “Effective Date” is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- F. “Eligibility Criteria” are the factors used to determine the customers and/or potential customers who would qualify for a Promotion, Customer Value Program, Marketing/Technical Trial, or Bundled Service: i.e., current services or services a customer must subscribe to, monthly spend, service or usage volume, term commitment, geographic location, such as wire center, and/or any other identifiable characteristic.
- G. “File Date” is the official date recorded by the office of the Director of the Commission’s Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- H. “Interconnection Services” include Switched Access Services, Special Access Services, and Local Access Services and are defined as follows:
  - (1) “Switched Access Services” allow toll providers to interconnect to BellSouth’s network in order to originate or terminate switched toll calls.

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<sup>1</sup> The term “competitive alternative” is defined as products and/or services offered by a telecommunications carrier who has the capability of providing the services to the customer at the time and place of the customer’s choosing and whose availability and pricing are such that BellSouth’s customers are reasonably expected to switch to a competitive provider. The Commission shall determine, on a case-by-case basis, the reasonableness of claims that competitive alternatives exist. The term “other unique circumstances” is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

- (2) “Special Access Services” are services providing an analog or digital transmission path that is not switched by a BellSouth end office to directly connect an interexchange carrier’s (“IXC’s”) terminal location and an end user’s premises, two IXC terminal locations, an IXC terminal location and a hub, or two end user premises.
- (3) “Local Access Services” allow competitive local exchange carriers (“CLECs”) or other providers of local exchange services to complete local calls via BellSouth’s network pursuant to the Telecommunications Act of 1996 (“the Act”) through the interconnection of a CLEC’s or other provider’s network to BellSouth’s network, through the resale by a CLEC of BellSouth’s regulated retail services, or through the purchase by the CLEC of unbundled network elements (“UNEs”) offered by BellSouth.
- I. “Marketing/Technical Trial” is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by BellSouth to eligible customers on a trial basis in BellSouth’s service area for technical and/or marketing purposes. Such trials shall be for the purpose of evaluating, in an operating environment, the performance and pricing of the specific service or services in conjunction with other marketing and environmental factors that can influence customer demand.
- J. “Metropolitan Statistical Area” (“MSA”) is an area, as defined by the Office of Management and Budget, with a large population nucleus that together with adjacent communities, has a high degree of social and economic integration.
- K. “New Service” is a regulated function, feature, capability, or any combination thereof, which is not offered by BellSouth as of the effective date of this Plan.
- L. “Non-discretionary Retail Telecommunication Services” are those services for which the Commission limits the degree of regulatory discretion otherwise provided in the Plan for Retail Telecommunications Services.
- M. “Promotion” is the offering of a telecommunications service or combination of telecommunications services, to eligible customers in BellSouth’s service area. BellSouth will only file promotions with the Commission for those services regulated by the Commission. However, the Company may market unregulated services in conjunction with a regulated promotional offering at its discretion. Customers subscribing to promotional offerings receive a one-time or short-term benefit that shall not exceed ninety (90) calendar days.
- N. “Retail Telecommunications Services” are the telecommunications services, other than Interconnection Services, which are offered by BellSouth and regulated by the Commission.

- O. “Telecommunications Service” is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used.
- P. The term “Tier” refers to a category of wire centers demonstrating similar levels of competitive activity and may include only a subcategory of service associated with a wire center (business or residential).
- Q. Total Service Long Run Incremental Cost (TSLRIC) is the sum of the usage sensitive costs caused by the service and service-specific fixed costs. The sum of a company’s TSLRICs and shared costs is equal to the total cost of the company.
- R. “Work Day” is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

### 3. COMPETITIVE CATEGORIES (TIERS)

For purposes of the Plan, BellSouth’s service territory shall first be divided into geographical affiliation based on Metropolitan Statistical Areas (“MSAs”). However, the MSAs shall only be used as a guideline for assigning wire centers to a competitive Tier. Competitive activity and not geographical affiliation ultimately determines wire center assignment to one of three (3) Tiers. Each Tier will contain wire centers demonstrating similar competitive activity. Because competition for business telecommunication services can develop absent a similar level of competitive activity for residence service, a wire center may be assigned to one competitive Tier for business service and another for residential service. BellSouth shall request assignment of wire centers and provide justification for the proposed assignment. The Commission, however, will determine the initial classification of wire centers to each of the competitive Tiers. Additionally, on each anniversary of the Plan, the Commission may review and redefine the criteria used to assign wire centers to each of the competitive Tiers.

Initially, the following MSAs shall be designated as Tier I MSAs: Birmingham-Hoover, Mobile, Montgomery, and Huntsville. The remaining MSAs, Anniston, Auburn/Opelika, Columbus (Georgia), Decatur, Florence, Gadsden, Pensacola (Florida), and Tuscaloosa, shall be designated as Tier II MSAs. The Non-MSA areas of the State shall be grouped together for regulatory purposes. Additional criteria for defining levels of competitive activity will be identified by the Commission and the Company and wire centers shall be assigned to Tier I, Tier II, or Tier III before the implementation of the Plan.

### 4. CLASSIFICATION AND RECLASSIFICATION OF WIRE CENTERS

Factors upon which BellSouth may request classification of wire centers into the competitive Tiers may include, but are not limited to, collocation arrangements, residential and/or business competitive market share, alternative sources of switching, alternative sources of transport, etc. Further, pricing and availability of competitive residential alternatives will be

used to determine the classification of residential service in each wire center to a competitive category. BellSouth will submit supporting documentation justifying the requested classification.

On each anniversary of the Plan, BellSouth may file requests to reclassify Tier I, Tier II, or Tier III wire centers. BellSouth shall file supporting documentation justifying the reclassification of wire centers to a different competitive Tier. Factors upon which BellSouth may base its reclassification request are referenced in the preceding paragraph and must include a separate analysis for residential service.

## 5. SERVICE CATEGORIES

Each telecommunications service offered by BellSouth and regulated by the Commission shall be assigned to one of two (2) categories: (1) Retail; and (2) Interconnection Services. (See Attachment B for the classification of services by category as of the effective date of this Plan.)

## 6. TARIFFS

BellSouth shall file tariffs for all telecommunications services offered by BellSouth and regulated by the Commission, except as specifically exempted herein. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (F) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion, the tariff in question may be suspended for up to ninety (90) days. If the Commission initiates an investigation based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff shall remain in effect pending completion of the investigation and hearing. In lieu of the suspension of proposed tariffs as the result of intervention by another party or the filing of a complaint by another party pursuant to §37-1-83 of the Code, the following procedures will be in effect.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party within sixty (60) days of the effective date of said tariff and orders a decrease in a price or prices contained therein, BellSouth shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective, but not to exceed one-hundred, fifty (150) days.

- A. Tariffs proposing changes to terms or conditions for telecommunications services offered by BellSouth and regulated by the Commission shall be filed with an Effective Date at least ten (10) work days following the File Date.
- B. Tariffs proposing price reductions for telecommunications services offered by BellSouth and regulated by the Commission shall be filed with an Effective Date at least five (5) work days following the File Date.
- C. Tariffs proposing price increases for Retail Telecommunications Services<sup>2</sup>, Switched Access Services, or Special Access Services in Tier I shall be filed with an Effective Date at least five (5) work days following the File Date. Price increases for Retail Telecommunications Services, Switched Access Services, or Special Access Services in Tier II and Tier III shall be filed with an Effective Date at least ten (10) work days following the File Date.
- D. Tariffs proposing price increases for Non-discretionary Retail Telecommunication Services, as annotated on Attachment B, shall be filed with an Effective date at least thirty (30) work days following the File Date.
- E. Tariffs for New Services shall be filed with an Effective Date at least five (5) work days following the File Date.
- F. Tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least twenty-five (25) work days following the File Date. For tariffs that eliminate telecommunications services, the tariff shall provide customers no less than one hundred, eighty (180) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer's current services are eliminated.
- G. BellSouth will not market and/or advertise regulated services by a different name and/or rate structure than that included in the tariff on file with the Commission.

## 7. PRICING RULES

### A. Pricing Rules – General

- (1) The price for any new or existing service shall equal or exceed its TSLRIC unless:
  - (1) specifically exempted by the Commission based on public interest concerns; or (2) BellSouth in good faith, and upon Commission approval, prices the service in order to meet the equally low price of a competitor.
- (2) In the event that BellSouth prices a service below TSLRIC to meet the equally low price of a competitor, any intrastate universal service fund which may exist cannot be utilized to offset the resulting revenue shortfall.

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<sup>2</sup> Except those Retail Telecommunication Services listed as "Non-discretionary" in Attachment B.

- (3) No price reductions that will result in prices below TSLRIC will be allowed unless approved by the Commission. No price reductions will be allowed for any existing services that are priced below TSLRIC on the effective date of this Plan, unless approved by the Commission.

B. Pricing Rules – Retail Services

(1) FLAT-RATE RESIDENTIAL AND BUSINESS SERVICE

- a. Upon approval of this Plan for BellSouth, prices for traditional flat-rate local exchange residential service (1FR service) and existing traditional flat-rate local exchange business service (1FB service), shall be capped at existing levels for two (2) years.
- b. Following the second anniversary of this Plan, prices for 1FR and 1FB service in Rate Groups 1-5 may be increased to the prices for Rate Group 6, creating an authorized single BellSouth statewide 1FR price of \$16.30<sup>3</sup> and a 1FB price of \$36.23.
- c. Following the fourth and sixth anniversaries of this Plan, prices for 1FR and 1FB service may, at the discretion of the Company<sup>4</sup>, be increased by five percent (5%). However, the tariff price for 1FR service shall not exceed eighteen dollars (\$18) per month and the tariff price for 1FB service shall not exceed \$39.95 per month unless, following notice and hearing, specifically approved by the Commission. Price increases for 1FR/1FB service will only be authorized in those wire centers compliant with the Commission's service quality objectives set forth in this Plan (as of the applicable anniversary date referenced above). Otherwise, prices for 1FR/1FB service in those wire centers that fail to meet the service quality objectives will remain unchanged until found in compliance.
- d. Within 90 days following the sixth anniversary of the plan, the Commission will make a further assessment of 1FR and 1FB prices and may schedule future adjustments as deemed necessary.

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<sup>3</sup> Prior to the implementation of this increase, the Company shall provide unlimited toll-free local calling to the community(ties) of interest agreed upon by the Company and the Commission for all of BellSouth's wire centers. Included with the implementation of this toll-free local calling service will be the elimination of the Bay Minette exception (A 3.10.2).

<sup>4</sup> The Company has the discretion to apply rate increases by competitive Tier (e.g., increase Tier II and/or Tier III but not Tier I or apply the authorized 1FR increases but not 1FB increases, by Tier). Rates may also be decreased in one or more competitive sectors while increased in others. However, any unapplied increases will not be accumulated and applied at a later date.



## (2) NON-DISCRETIONARY RETAIL SERVICES

Prices for Non-discretionary Retail Telecommunication Services, annotated on Attachment B, shall not be increased at the discretion of BellSouth. The Company may request increases for prices of these services, on a case-by-case basis, in accordance with the filing requirements identified in part 6D of this Plan. In evaluating such requested price increases, the Commission will take into account prices for the same or equivalent services in other states within BellSouth's operating area.

## (3) VERTICAL SERVICES

Upon approval of this Plan for BellSouth, prices for all residential and business vertical services may be adjusted to the maximum existing price in any one of the states within BellSouth's operating area. Thereafter, the pricing rules in 7B(5) of this Plan apply for all vertical services except those identified below as Basic Vertical Services,.

## (4) BASIC VERTICAL SERVICES

Following the second, fourth and sixth anniversaries<sup>5</sup> of the Plan, prices of Basic Vertical Services (annotated on Attachment B), may be increased by a maximum of five percent (5%) per service.

## (5) OTHER RETAIL TELECOMMUNICATIONS SERVICES

Prices for other Retail Telecommunications Services shown in Attachment B (excluding Basic Vertical Services and Non-discretionary Retail Services) may be adjusted at the discretion of BellSouth with the following limitations:

- a. Tier I increases shall be limited to fifteen percent (15%) per service annually.
- b. Tier II increases shall be limited to ten percent (10%) annually per service.
- c. Tier III increases shall be limited to five (5%) annually per service.

### C. Pricing Rules – Switched Access Services and Local Access Services

- (1) BellSouth's combination of the traffic sensitive per minute charge for originating and terminating switched access service will be capped at the effective intrastate level (including any non-traffic sensitive rate elements) as of the date this Plan is implemented.
- (2) No intrastate access reduction will occur unless the subsidy to non-bundled, existing traditional flat-rate local exchange services for residential service provided by switched access is replaced by an end user charge, an increase in local service rates

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<sup>5</sup> Within 90 days following the sixth anniversary of the plan, the Commission will make a further assessment of prices for these selected services.

(in addition to those provided for in Part 7B of this Plan), or by the introduction of an intrastate universal service fund. The establishment of an end user charge or an intrastate universal service fund will only occur following notice and hearing.

- (3) Regarding Local Access Services, the resale discount applicable to BellSouth's prices for standalone, regulated retail telecommunications services and terms, conditions, and prices for unbundled network elements will be formally reviewed and appropriately adjusted periodically following a hearing by the Commission.

## 8. CONTRACT SERVICE ARRANGEMENTS

- A. Customer-specific contract service arrangements ("CSAs") may be offered by BellSouth to customers in Tier I for any product or service provided by BellSouth and regulated by the Commission. CSAs may be offered by BellSouth to customers in Tier II and Tier III for any product or service provided by BellSouth and regulated by the Commission in response to a competitive alternative or other unique circumstances.<sup>6</sup> Rates, terms, conditions, and additional regulations, if applicable, for the CSA will be developed on an individual case basis and will include all relevant costs, plus an appropriate level of contribution. Unless otherwise specified, regulations applicable to a CSA are in addition to the applicable rates and regulations specified in BellSouth's tariffs.
- B. BellSouth will establish and maintain a secure database for all its CSAs and will provide database access to the Commission staff and the State Attorney General. Within 5 work days following the effective date of a CSA, BellSouth will provide, via the secure database, pertinent details regarding the CSA for Commission review, to include details about competitive alternatives in Tier II and Tier III. BellSouth will notify the Commission staff and Attorney General when additions are made to the database. BellSouth will, within 5 work days after notification, provide the Commission staff with access to detailed cost support for any CSA the staff chooses to review. BellSouth and the Attorney General agree to keep a comprehensive proprietary agreement in effect at all times to allow the Attorney General access to any proprietary/confidential information provided to the Commission's staff.
- C. The Commission retains authority to investigate CSAs. Should any CSA be found in non-compliance with the requirements of 8A to this Plan and/or to be priced below the TSLRIC price floor without the Commission's prior approval, the Commission may take remedial action to include suspending, for any period deemed appropriate by the Commission, the CSA provisions of this Plan for BellSouth.

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<sup>6</sup> As previously referenced, the term "other unique circumstances" is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

## 9. PROMOTIONS, CUSTOMER VALUE PROGRAMS, MARKETING/TECHNICAL TRIALS, & BUNDLED SERVICES

### A. General

The following rules apply to all Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings submitted for the Commission's consideration.

- (1) A transmittal letter shall be provided to the Commission no later than three (3) work days prior to the proposed effective date and all supporting documentation will be available on the Company's publicly accessible Internet web pages on the date the aforementioned transmittal letter is provided to the Commission. A URL to the supporting documentation will be included in the transmittal letter and a hyperlink for same forwarded, via email, to the Commission's Telecommunications Division. Cost support will be available to the Commission Staff upon request.
- (2) If the Commission staff determines that further investigation is necessary, the Company will be notified prior to the effective date and will delay implementation for no more than five (5) work days pending an investigation. If the Commission has not denied the request within five (5) work days following the proposed effective date, approval will become effective the succeeding work day. Denial will consist of a verbal notification to the Company followed by a written Commission Order<sup>7</sup>. The Commission may also notify the Company anytime within the investigatory period that the request is acceptable and approval will become effective upon that notification.

### B. Promotions

Subject to the availability of products, services, and facilities, Promotions will be available to all subscribers meeting the eligibility criteria as set forth in the Promotion. The following supporting documentation must be provided for the promotion:

- (1) A description of the Promotion (including terms and conditions);
- (2) A description of the geographic area in which the Promotion will be offered;
- (3) The eligibility criteria for the Promotion;
- (4) The marketing period (beginning and ending dates);
- (5) The services included in the Promotion; and,
- (6) Availability for resale.

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<sup>7</sup> If the Company voluntarily withdraws the request, the requirement for a written Order disapproving the request is waived.

### C. Customer Value Programs:

Customer Value Programs (CVPs) will be available on a non-discriminatory basis to all subscribers meeting the eligibility criteria for each Program. The following supporting documentation must be provided for the CVP:

- (1) A description of the CVP (including terms and conditions);
- (2) A description of the geographic area in which the CVP will be offered;
- (3) The eligibility criteria for the CVP;
- (4) The marketing period (beginning and ending dates); and,
- (5) Availability for resale.

### D. Marketing/Technical Trials

The following supporting documentation must be included must be provided for all Marketing/Technical Trials:

- (1) A description of the parameters of the Trial (including terms and conditions);
- (2) A description of the geographic area in which the Trial will be offered; and,
- (3) The rates and charges for the Trial, including any applicable range of rates within which the rates may be increased or decreased.

Marketing/Technical Trials may be offered for not less than one (1) month or not more than twelve (12) months.

### E. Bundled Services<sup>8</sup>

Subject to the availability of products, services, and facilities, Bundled Services will be available to all subscribers meeting the eligibility criteria for such Bundled Services. The Company may, at its discretion, market unregulated services as an “add on” to an approved regulated bundle at any price exceeding the Commission approved price for the regulated service bundle. Nevertheless, the regulated services bundle must be made available to qualified customers, on a non-discriminatory basis, at their request. Bundled regulated services shall be available for resale.

The following supporting documentation must be provided for all Bundled Service offerings:

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<sup>8</sup> Existing rules and regulations, such as those involving bill payment, the allocation of payments between regulated and nonregulated services, and discontinuance of service for non-payment, remain in effect when customers subscribe to Bundled Services, unless and until modified by the Commission.

- (1) A description of the Bundled Service (including terms and conditions);
- (2) A description of the geographic area in which the Bundled Service will be offered;
- (3) The eligibility criteria for the Bundled Service;
- (4) The marketing period (beginning and ending dates).
- (5) Availability for resale.

## 10. SERVICE QUALITY

- A. BellSouth will conform to the service standards outlined in Section T-21 of the Commission's Telephone Rules. The Commission may require submission of reports and data as it deems necessary to monitor service performance.
- B. The Commission may, after notice and hearing, require BellSouth to credit customer bills for 1FR/1FB<sup>9</sup> service in wire centers that fail to achieve the Commission's service quality objectives. The amount of the credit shall not exceed 15% of the monthly 1FR/1FB rate for a period to be determined by the Commission.

## 11. CUSTOMER NOTIFICATION

- A. BellSouth will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and BellSouth will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

## 12. REPORTING & FILING REQUIREMENTS

- A. BellSouth will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). BellSouth will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, BellSouth will submit to the Commission, within 5 work days from

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<sup>9</sup> In addition to 1FR/1FB service, the credit applies to all other local calling plans. However, the amount of the credit applied to other local calling plans is based on the tariff rate for 1FR/1FB service.

the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.

- B. On a monthly basis, BellSouth will report the number and type of access lines (residence/business) served in each wire center.
- C. On a monthly basis, BellSouth will report the customer name and location of pay phone service provider (PSP) and shared tenant service (STS) access lines served in each wire center.
- D. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

### 13. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

### 14. COMMISSION REVIEW

The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.

The Commission may not modify or repeal any portion of this Plan without notice and hearing. BellSouth or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.

**CLASSIFICATION OF BELL SOUTH'S WIRE CENTERS****Tier I MSAs**

<b>Birmingham-Hoover</b>	<b>Huntsville</b>	<b>Mobile</b>	<b>Montgomery</b>
Alabaster	Athens Elk River	Airport	Fort Deposit
Bessemer Birminghamport	Athens Main	Azalea	Dalraida
Bessemer Hueytown	Gurley	Bay Front	Holtville
Bessemer Main	Hazel Green	Belle Fontaine	Main & Toll
Cahaba Heights	Lakewood	Citronelle	Millbrook
Calera	Madison New Main	Mount Vernon	Normandale
Carbon Hill	Madison Old Main	Old Shell	Prattville
Center Point	Main & Toll	Prichard	Wetumpka
Centreville	Parkway	Saraland	
Chelsea	Redstone Arsenal	Semmes	
Clanton	Research West	Skyline	
Columbiana	Strategic Defense	Springhill	
Cordova	University	Theodore	
Dora			
Eastlake			
Eastwood			
Ensley			
Five Points			
Forestdale			
Gardendale			
Graysville			
Homewood			
Jasper			
Main & Toll			
Maplesville			
Montevallo			
Oak Mountain			
Oxmoor			
Parrish			
Pinson			
Riverchase			
Tarrant			
Valley			
Vincent			
Warrior			
West Blocton			
West End			
Woodlawn			

**CLASSIFICATION OF BELL SOUTH'S WIRE CENTERS****Tier II MSAs**

<b>Anniston</b>	<b>Auburn</b>	<b>Columbus</b>	<b>Decatur</b>
Jacksonville	Auburn	Huntsboro	Courtland
Lenlock	Opelika	Phoenix City Fort Mitchell	Decatur
Main & Toll		Phoenix City Main	Hartselle Main
Ohatchee			Hartselle Pence
Oxford			Moulton
Piedmont			Towncreek

<b>Florence</b>	<b>Gadsden</b>	<b>Pensacola</b>	<b>Tuscaloosa</b>
Florence	Attalla	Flomaton	Bessemer Bucksville
Killen	Boaz		Druid Hill
Leighton	Hillside		Eutaw Boligee
Lexington	Main & Toll		Eutaw Main
Rogersville	Rainbow Drive		Greensboro
Sheffield			Northport
			Tuscaloosa Main

**Non-MSA Areas**

Albertville	Fairhope	Red Bay
Alexander City	Fort Payne	Russellville
Bay Minette	Goodwater	Selma
Brewton	Guntersville	Spanish Fort
Bridgeport	Hanceville Bremen	Stevenson
Childersburg	Hanceville Main	Sylacauga
Clayton	Jackson	Talladega Main
Cullman Fairview	Lafayette	Talladega Renfro
Cullman Jones Chapel	Linden	Thomasville
Cullman Main	Livingston	Troy
Dadeville	Marion	Tuskegee
Demopolis	McIntosh	Uniontown
Eufaula	Munford	York
Evergreen		



## CLASSIFICATION OF SERVICES BY CATEGORY

### Retail Services

<b>A2</b>	<b>General Regulations</b>	<b>Non-discretionary</b>
<b>A3</b>	Basic Local Exchange Service	
	A3.2.1 Flat Rate Residence and Business Service	
	A3.2.9 Area Calling Service	
	A3.2.10 Complete Choice® Service	
	A3.10.2 Bay Minette Exception	
	A3.10.3 Bridgeport Exception	
	A3.10.4 Reverse Billing Option (Bridgeport)	
	A3.2.11 Area Plus® Service	
	A3.7 Measured Rate Service	
	A3.12 NAR Usage Packages	
	<b>A3.13.3 Directory Assistance Service</b>	<b>Non-discretionary</b>
	A3.14.3 Local Operator and Calling Card Service	
	A3.15 Local Operator Verification/Interruption Service	
	A3.19 Grouping Service	
	A3.20 Trunk Lines	
	A3.24 Directory Assistance Call Completion Service	
	A3.25 Directory Assistance/Directory Assistance Call Completion Service	
	A3.26 Network Access Service	
	A3.27 Trunk Side Access Facility	
	A3.30 Exchange Access Premium Charge	
	<b>A3.31 Lifeline</b>	<b>Non-discretionary</b>
	A3.32 Classroom Communication Service	
	A3.38 Back-Up Line Service	
	A3.43 BellSouth Business Plus Service	
	A3.45 Complete Choice® for Business Package	
<b>A4</b>	Service Charges	
	A4.2.7 Installment Billing	
	<b>A4.3 Residence and Business Service Charges</b>	<b>Non-discretionary</b>
	A4.4 Dual Service	
	<b>A4.7 Link-Up</b>	<b>Non-discretionary</b>
<b>A5</b>	Charges Applicable Under Special Conditions	
<b>A6</b>	<b>Directory Listings</b>	<b>Non-discretionary</b>
<b>A8</b>	Telephone Answering Service Facilities	
<b>A9</b>	Foreign Exchange Service & Foreign Central Office Service	
<b>A12</b>	Central Office Non-Transport Offerings	
	A12.4 Assigned Centrex Type Services Telephone Numbers Without Facilities	
	A12.7 Direct-Inward Dialing Service	
	A12.8 Identified-Outward Dialing From PBX Systems	
	A12.16 Prestige® Communications Service	
	A12.20 MultiServ® Service	
	A12.21 MultiServ® Plus Service	
	A12.22 MultiServ® Multi-Account Service	
	A12.25 BellSouth® Centrex Service	
	A12.26 BellSouth® Centrex ISDN Service	
<b>A13</b>	Miscellaneous Service Arrangements	
	A13.5 Arrangements for Night, Sunday and Holiday Service	
	<b>A13.9 Custom Calling Service</b>	<b>Basic Vertical Services (RES and BUS)</b>
	Call Waiting and Call Waiting Deluxe (all)	<b>Basic Vertical Services (BUS)</b>
	Call Forwarding Variable, Call Forwarding Busy Line, Call Fwd Don't Ans with or w/o ring control	
	<b>A13.11 Remote Call Forwarding</b>	<b>Basic Vertical Services (BUS)</b>

A13.12	Selective Class of Call Screening Service	
A13.13	Dormitory Communications Service	
A13.14	Toll Trunks	
A13.16	Local Calling Area Conference Service	
A13.17	Feature Packages	
<b>A13.19</b>	<b>TouchStar® Service</b>	
	Caller ID Basic, Caller ID Deluxe with or without ACR and Enhanced Caller ID	<b>Basic Vertical Services (RES and BUS)</b>
A13.20	Call Screening and Restriction Services	
A13.25	Extension Line Channels	
<b>A13.27</b>	<b>Emergency Reporting Services</b>	<b>Non-discretionary</b>
A13.30	Automatic Time and Charge Reporting Service	
A13.34	Ringmaster® Service	
A13.46	SMDI	
A13.47	Message Waiting Indication	
A13.49	Surrogate Client Number	
A13.50	Telecommunications Service Priority System	
A13.51	Electronic White Pages	
A13.53	Multiline Hunt Queuing	
A13.56	Hot Line Service	
A13.57	Warm Line Service	
A13.58	Uniform Access Number	
A13.59	Automatic Number Identification	
A13.60	Custom Service Area	
A13.61	Answer Supervision	
A13.62	Call Detail Information	
A13.70	BellSouth® Privacy Director® Service	
A13.72	Inter-Switch SMDI	
A13.76	Internet Call Waiting Service	
A13.77	Voice Mail Companion Services Package	
A13.78	BellSouth Essentials Package	
<b>A13.79</b>	<b>211 Dialing Service</b>	<b>Non-discretionary</b>
<b>A13.80</b>	<b>711 Dialing Code for TRS</b>	<b>Non-discretionary</b>
<b>A13.81</b>	<b>511 Dialing Service</b>	<b>Non-discretionary</b>
A14	Auxiliary Equipment	
A15	Connections With Certain Facilities and/or Equipment Of Others	
A18	Long Distance Message Telecommunications Service	
A19	Wide Area Telecommunications Service	
A20	Optional Calling Plans	
A29	Data Transport Service	
A32	Integration Plus Management Services	
A34	Advanced Intelligent Network Services	
A37	Billing and Collection Services	
A38	Listing Services	
A40	Fast Packet Transport Services	
A42	ISDN	
A43	Channelized Voice Transport Services	
A47	BellSouth® Remote Access Service	
A103	Obsolete Service Offerings – Basic Local Exchange Services	
A108	Obsolete Service Offerings – Telephone Answering Service Facilities	
A111	Obsolete Service Offerings – ESSX-1 Service	

A112	Obsolete Service Offerings – Central Office Non-Transport Services
A113	Obsolete Service Offerings – Miscellaneous Service Arrangements
A120	Obsolete Service Offerings – Optional Calling Plans
A123	Obsolete Service Offerings – ESS Central Office Features
A125	Obsolete Service Offerings - Lightgate® Digital Service
A126	Obsolete Service Offerings – Exchange Digital Services
A129	Obsolete Service Offerings – Data Transport Service
A131	Obsolete Service Offerings – Multi-Location Business Service
A134	Obsolete Service Offerings – AIN Services
A139	Obsolete Service Offerings – Abbreviated Dialing
A140	Obsolete Service Offerings – Fast Packet Transport Services
A142	Obsolete Service Offerings – ISDN
B3	Channels
B4	Equipment
B7	Digital Network Services
B8	Custom Network Service
B103	Obsolete Service Offerings – Channels
B104	Obsolete Service Offerings – Equipment
B107	Obsolete Service Offerings – Digital Network Services

### **Interconnection Services**

A7	Coin Telephone Service
A35	Interconnection of Mobile Services
E3	Carrier Common Line Access Service
E5	Ordering Options for BellSouth SWA and Special Access Service
E6	BellSouth SWA Service
E7	Special Access Service
E8	Billing and Collection Services
E9	BellSouth Directory Assistance Access Service
E18	Operator Services Access Services
E20	Expanded Interconnection Service
E21	Fast Packet Access Service
E34	Advanced Intelligent Network Service

## **PART II**

### **ILEC PRICE CAP PLAN**

#### **1. APPLICABILITY OF THE ILEC PRICE CAP PLAN**

The Staff Proposed ILEC Price Cap Plan (“Price Cap Plan” or the “Plan”) for all non-BellSouth ILECs will apply to all telecommunication services regulated by the Alabama Public Service Commission (hereinafter referred to as “the Commission”). ILECs will be regulated under the Price Cap Plan unless they make a one-time choice to be regulated under the alternative ILEC Price Flexibility Plan provided in Part III of the TELCOM REG PLAN. Thereafter, ILECs must petition for Commission approval to switch from the Price Cap Plan to the Price Flexibility Plan. ILECs may not switch from the Price Flexibility Plan to the Price Cap Plan.

#### **2. DEFINITIONS**

- A. “Bundled Services” are packages of regulated services offered at one price. Requests to bundle services shall only consist of regulated services and the associated price for the bundled regulated services.
- B. “Contract Service Arrangement” (“CSA”) is an arrangement wherein ILECs provide services pursuant to a contract between the ILEC its and customers in response to a competitive alternative or other unique circumstances<sup>1</sup>. Such arrangements include situations in which the services are not otherwise available through the ILEC’s tariffs, as well as situations in which the services are available through the ILEC’s tariffs, but the ILEC offers those services at prices other than those specified in the ILEC’s tariffs.
- C. “Customer Value Program” is the offering of volume and/or term discounts by the ILEC to eligible customers in the ILEC’s service area. Customers subscribing to such programs will receive ongoing benefits for a duration that may exceed ninety (90) calendar days.

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<sup>1</sup> The term “competitive alternative” is defined as products and/or services offered by a telecommunications carrier who has the capability of providing the services to the customer at the time and place of the customer’s choosing and whose availability and pricing are such that the ILEC’s customers are reasonably expected to switch to a competitive provider. The Commission shall determine, on a case-by-case basis, the reasonableness of claims that competitive alternatives exist. The term “other unique circumstances” is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

- D. “Effective Date” is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- E. “Eligibility Criteria” are the factors used to determine the customers and/or potential customers who would qualify for a Promotion, Customer Value Program, Marketing/Technical Trial, or Bundled Service: i.e., current services or services a customer must subscribe to, monthly spend, service or usage volume, term commitment, geographic location, such as wire center, and/or any other identifiable characteristic.
- F. “File Date” is the official date recorded by the office of the Director of the Commission’s Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- G. “Interconnection Services” include Switched Access Services and Special Access Services, defined as follows:
- (1) “Switched Access Services” allow toll providers to interconnect to the ILEC’s network in order to originate or terminate switched toll calls.
  - (2) “Special Access Services” are services providing an analog or digital transmission path that is not switched by an ILEC end office to directly connect an interexchange carrier’s (“IXC’s”) terminal location and an end user’s premises, two IXC terminal locations, an IXC terminal location and a hub, or two end user premises.
- H. “Marketing/Technical Trial” is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by the ILEC to eligible customers on a trial basis in the ILEC’s service area for technical and/or marketing purposes. Such trials shall be for the purpose of evaluating, in an operating environment, the performance and pricing of the specific service or services in conjunction with other marketing and environmental factors that can influence customer demand.
- I. “New Service” is a regulated function, feature, capability, or any combination thereof, which is not offered by the ILEC as of the effective date of this Plan.
- J. “Non-discretionary Retail Telecommunication Services” are those services for which the Commission limits the degree of regulatory discretion otherwise provided in the Plan for Retail Telecommunications Services.
- K. “Promotion” is the offering of a telecommunications service or combination of telecommunications services by ILECs to eligible customers in the ILEC’s service

area. Customers subscribing to promotional offerings receive a one-time or short-term benefit that shall not exceed ninety (90) calendar days.

- L. “Retail Telecommunications Services” are the telecommunications services, other than Interconnection Services, which are offered by ILECs and regulated by the Commission.
- M. “Telecommunications Service” is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used.
- N. Total Service Long Run Incremental Cost (TSLRIC) is the sum of the usage sensitive costs caused by the service and service-specific fixed costs. The sum of a company’s TSLRICs and shared costs is equal to the total cost of the company.
- O. “Work Day” is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

### 3. SERVICE CATEGORIES

Each telecommunications service offered by the ILEC and regulated by the Commission shall be assigned to one of two (2) categories: (1) Retail; and (2) Interconnection Services.

### 4. TARIFFS

ILECs shall file tariffs for all telecommunications services offered by the ILEC and regulated by the Commission. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (F) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion or based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff in question may be suspended for up to one hundred, eighty (180) days.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party and orders a decrease in a price or prices contained

therein, the ILEC shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective.

- A. Tariffs proposing changes to terms or conditions for telecommunications services offered by the ILEC and regulated by the Commission shall be filed with an Effective Date at least thirty (30) work days following the File Date.
- B. Tariffs proposing price reductions for telecommunications services offered by ILEC and regulated by the Commission shall be filed with an Effective Date at least five (5) work days following the File Date.
- C. Tariffs proposing price increases for Retail Telecommunications Services<sup>2</sup>, Switched Access Services, or Special Access Services shall be filed with an Effective Date at least thirty (30) work days following the File Date.
- D. Tariffs proposing price increases for Non-discretionary Retail Telecommunication Services shall be filed with an Effective date at least thirty (30) work days following the File Date.
- E. Tariffs for New Services shall be filed with an Effective Date at least thirty (30) work days following the File Date.
- F. Tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least thirty (30) work days following the File Date. For tariffs that eliminate telecommunications services, the tariff shall provide customers no less than one hundred, eighty (180) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer's current services are eliminated.
- G. ILECs will not market and/or advertise regulated services by a different name and/or rate structure than that included in the tariff on file with the Commission.

## 5. PRICING RULES

### A. Pricing Rules – General

- (1) The price for any new or existing service shall equal or exceed its TSLRIC unless: (1) specifically exempted by the Commission based on public interest concerns; or (2) ILEC in good faith, and upon Commission approval, prices the service in order to meet the equally low price of a competitor.

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<sup>2</sup> Except those Retail Telecommunication Services listed as “Non-discretionary”.

- (2) In the event that ILEC prices a service below TSLRIC to meet the equally low price of a competitor, any intrastate universal service fund which may exist cannot be utilized to offset the resulting revenue shortfall.
- (3) No price reductions that will result in prices below TSLRIC will be allowed unless approved by the Commission. No price reductions will be allowed for any existing services that are priced below TSLRIC on the effective date of this Plan, unless approved by the Commission.

#### B. Pricing Rules – Retail Services

##### (1) Discretionary Retail Services

- a. Upon approval of the ILEC Price Cap Plan, prices for all services shall be capped at existing levels for three (3) years.
- b. Following the third anniversary of this Plan, prices for 1FR and 1FB service may be increased by no more than one percent (1%) annually. However, the tariff price for 1FR service shall not exceed eighteen dollars (\$18) per month and the tariff price for 1FB service shall not exceed \$39.95 per month unless, following notice and hearing, specifically approved by the Commission. Price increases for 1FR/1FB service will only be authorized in those wire centers compliant with the Commission's service quality objectives set forth in this Plan (as of the applicable anniversary date referenced above). Otherwise, prices for 1FR/1FB service in those wire centers that fail to meet the service quality objectives will remain unchanged until found in compliance.
- c. Following the third anniversary of this Plan, prices for other Retail Telecommunications Services (excluding Non-discretionary Retail Services) may be adjusted by no more than two percent (2%) per service annually.

##### (2) NON-DISCRETIONARY RETAIL SERVICES

Non-Discretionary Retail Services will be identified in a Commission Workshop and will generally correspond with those Non-Discretionary Retail Services included in Part I of the TELCOM REG Plan. Prices for Non-discretionary Retail Telecommunication Services shall not be increased at the discretion of ILEC. The Company may request increases for prices of these services, on a case-by-case basis.

#### C. Pricing Rules – Switched Access Services and Local Access Services

- (1) The ILEC's combination of the traffic sensitive per minute charge for originating and terminating switched access service will be capped at the



effective intrastate level (including any non-traffic sensitive rate elements) as of the date this Plan is implemented.

- (2) No intrastate access reduction will occur unless the subsidy to non-bundled, existing traditional flat-rate local exchange services for residential service provided by switched access is replaced by an end user charge, an increase in local service rates (in addition to those provided for in Part 5B of this Plan), or by the introduction of an intrastate universal service fund. The establishment of an end user charge or an intrastate universal service fund will only occur following notice and hearing.

## 6. CONTRACT SERVICE ARRANGEMENTS

- A. Customer-specific contract service arrangements ("CSAs") may be offered by the ILEC for any product or service provided by the ILEC and regulated by the Commission in response to a competitive alternative or other unique circumstances.<sup>3</sup> Rates, terms, conditions, and additional regulations, if applicable, for the CSA will be developed on an individual case basis and will include all relevant costs, plus an appropriate level of contribution. Unless otherwise specified, regulations applicable to a CSA are in addition to the applicable rates and regulations specified in ILEC's tariffs.
- B. A transmittal letter shall be provided to the Commission no later than ten (10) work days prior to the proposed effective date for the CSA and all supporting documentation will be submitted therewith. ILECs will provide the Commission staff with access to detailed cost support for any CSA the staff chooses to review.
- C. If the Commission staff determines that further investigation is necessary, the Company will be notified prior to the effective date and will delay implementation for no more than twenty (20) work days pending an investigation. If the Commission has not denied the request within twenty (20) work days following the proposed effective date, approval will become effective the succeeding work day. Denial will consist of a verbal notification to the Company followed by a written Commission Order<sup>4</sup>. The Commission may also notify the Company anytime within the investigatory period that the request is acceptable and approval will become effective upon that notification.

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<sup>3</sup> As previously referenced, the term "other unique circumstances" is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

<sup>4</sup> If the Company voluntarily withdraws the request, the requirement for a written Order disapproving the request is waived.

## 7. PROMOTIONS, CUSTOMER VALUE PROGRAMS, MARKETING/TECHNICAL TRIALS, & BUNDLED SERVICES

### A. General

The following rules apply to all Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings submitted for the Commission's consideration.

- (1) A transmittal letter shall be provided to the Commission no later than fifteen (15) work days prior to the proposed effective date and all supporting documentation will be submitted therewith. Cost support will be available to the Commission Staff upon request.
- (2) If the Commission staff determines that further investigation is necessary, the Company will be notified prior to the effective date and will delay implementation for no more than ten (10) work days pending an investigation. If the Commission has not denied the request within ten (10) work days following the proposed effective date, approval will become effective the succeeding work day. Denial will consist of a verbal notification to the Company followed by a written Commission Order<sup>5</sup>. The Commission may also notify the Company anytime within the investigatory period that the request is acceptable and approval will become effective upon that notification.

### B. Promotions

Subject to the availability of products, services, and facilities, Promotions will be available to all subscribers meeting the eligibility criteria as set forth in the Promotion. The following supporting documentation must be provided for the promotion:

- (1) A description of the Promotion (including terms and conditions);
- (2) A description of the geographic area in which the Promotion will be offered;
- (3) The eligibility criteria for the Promotion;
- (4) The marketing period (beginning and ending dates);
- (5) The services included in the Promotion; and,

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<sup>5</sup> If the Company voluntarily withdraws the request, the requirement for a written Order disapproving the request is waived.

### C. Customer Value Programs:

Customer Value Programs (CVPs) will be available on a non-discriminatory basis to all subscribers meeting the eligibility criteria for each Program. The following supporting documentation must be provided for the CVP:

- (1) A description of the CVP (including terms and conditions);
- (2) A description of the geographic area in which the CVP will be offered;
- (3) The eligibility criteria for the CVP;
- (4) The marketing period (beginning and ending dates); and,

### D. Marketing/Technical Trials

The following supporting documentation must be included must be provided for all Marketing/Technical Trials:

- (1) A description of the parameters of the Trial (including terms and conditions);
- (2) A description of the geographic area in which the Trial will be offered; and,
- (3) The rates and charges for the Trial, including any applicable range of rates within which the rates may be increased or decreased.

Marketing/Technical Trials may be offered for not less than one (1) month or not more than twelve (12) months.

### E. Bundled Services<sup>6</sup>

Subject to the availability of products, services, and facilities, Bundled Services will be available to all subscribers meeting the eligibility criteria for such Bundled Services. The Company may, at its discretion, market unregulated services as an “add on” to an approved regulated bundle at any price exceeding the Commission approved price for the regulated service bundle. Nevertheless, the regulated services bundle must be made available to qualified customers, on a non-discriminatory basis, at their request.

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<sup>6</sup> Existing rules and regulations, such as those involving bill payment, the allocation of payments between regulated and nonregulated services, and discontinuance of service for non-payment, remain in effect when customers subscribe to Bundled Services, unless and until modified by the Commission.

The following supporting documentation must be provided for all Bundled Service offerings:

- (1) A description of the Bundled Service (including terms and conditions);
- (2) A description of the geographic area in which the Bundled Service will be offered;
- (3) The eligibility criteria for the Bundled Service;
- (4) The marketing period (beginning and ending dates).

## 8. SERVICE QUALITY

- A. ILECs will conform to the service standards outlined in Section T-21 of the Commission's Telephone Rules. The Commission may require submission of reports and data as it deems necessary to monitor service performance.
- B. The Commission may, after notice and hearing, require ILECs to credit customer bills for 1FR/1FB<sup>7</sup> service in wire centers that fail to achieve the Commission's service quality objectives. The amount of the credit shall not exceed 15% of the monthly 1FR/1FB rate for a period to be determined by the Commission.

## 9. CUSTOMER NOTIFICATION

- A. ILECs will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and the ILEC will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

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<sup>7</sup> In addition to 1FR/1FB service, the credit applies to all other local calling plans. However, the amount of the credit applied to other local calling plans is based on the tariff rate for 1FR/1FB service.

## 10. REPORTING & FILING REQUIREMENTS

- A. ILECs will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). ILECs will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, ILECs will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a monthly basis, ILECs will report the number and type of access lines (residence/business) served in each wire center.
- C. On a monthly basis, ILECs will report the customer name and location of pay phone service provider (PSP) and shared tenant service (STS) access lines served by the ILEC in each wire center.
- D. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

## 11. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

## 12. COMMISSION REVIEW

The Commission will conduct an assessment of this Plan beginning with the third anniversary date of the Plan in 2007 and will complete the assessment within one hundred and eighty (180) days following the third anniversary date.

The Commission may not modify or repeal any portion of this Plan without notice and hearing. ILEC or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.

### **PART III**

## **ILEC PRICE FLEXIBILITY PLAN**

### **1. APPLICABILITY OF THE ILEC PRICE FLEXIBILITY PLAN**

- A. The Staff Proposed ILEC Price Flexibility Plan (the “ILEC Plan” or the “Plan”) for Incumbent Local Exchange Carriers (“ILECs”) applies to all telecommunications services offered by ILECs (except BellSouth) and regulated by the Commission who choose to waive their exemption from competition and, thereby, request additional pricing flexibility than is offered through the ILEC Price Cap Plan.
- B. ILECs must petition the Commission for approval to be regulated under the optional ILEC Plan and must qualify by complying with all of the following:
  - (1) The ILEC’s monthly price for 1FR service must be no higher than \$16.30 unless exempted by the Commission.
  - (2) The ILEC has waived their rural exemption from competition and agrees to offer their services for resale and to offer unbundled elements of their network, as technically feasible, upon request.
  - (3) The ILEC has an approved wholesale discount rate for resale of its services and approved unbundled network element (UNE) prices. The default wholesale discount rate is that offered by BellSouth or CenturyTel and the default UNE prices are those offered, in any UNE zone, by BellSouth or CenturyTel. Alternatively, the ILEC may submit studies supporting a wholesale discount rate and/or UNE prices other than the aforementioned default rate/prices. Further, these studies may be submitted for Commission consideration anytime following adoption of the default rate/prices.
  - (4) The ILEC has an approved, unlimited, extended local calling plan to communities of interest designated by the Commission for each exchange that it serves. The extended local calling plan may be offered at the existing 1FR rate or may be offered as an optional service for a price no higher than 1.5 times the 1FR price. Additional LATA-wide, local calling is not mandatory but can be provided as an optional “add on” to the unlimited extended local calling plan.

## 2. DEFINITIONS

- C. “Basic Vertical Services” are those switching features and their variants that, in the Commission’s assessment, have gained such universal customer appeal that they are no longer considered discretionary for a large percentage of the customer base.
- D. “Bundled Services” are packages of regulated services offered by the ILEC at one price. Requests to bundle services shall only consist of regulated services and the associated price for the bundled regulated services.
- E. “Contract Service Arrangement” (“CSA”) is an arrangement wherein the ILEC provides services pursuant to a contract between the ILEC and customers in Tier I where competitive alternatives are known to exist and in Tier II and Tier III in response to a competitive alternative or other unique circumstances<sup>1</sup>. Such arrangements include situations in which the services are not otherwise available through ILEC’s tariffs, as well as situations in which the services are available through ILEC’s tariffs, but the ILEC offers those services at prices other than those specified in the ILEC’s tariffs.
- F. “Customer Value Program” is the offering of volume and/or term discounts by the ILEC to eligible customers in the ILEC’s service area. Customers subscribing to such programs will receive ongoing benefits for a duration that may exceed ninety (90) calendar days.
- G. “Effective Date” is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- H. “Eligibility Criteria” are the factors used to determine the customers and/or potential customers who would qualify for a Promotion, Customer Value Program, Marketing/Technical Trial, or Bundled Service: i.e., current services or services a customer must subscribe to, monthly spend, service or usage volume, term commitment, geographic location, such as wire center, and/or any other identifiable characteristic.

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<sup>1</sup> The term “competitive alternative” is defined as products and/or services offered by a telecommunications carrier who has the capability of providing the services to the customer at the time and place of the customer’s choosing and whose availability and pricing are such that the ILEC’s customers are reasonably expected to switch to a competitive provider. The Commission shall determine, on a case-by-case basis, the reasonableness of claims that competitive alternatives exist. The term “other unique circumstances” is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

- I. "File Date" is the official date recorded by the office of the Director of the Commission's Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- J. "Interconnection Services" include Switched Access Services, Special Access Services, and Local Access Services and are defined as follows:
  - (5) "Switched Access Services" allow toll providers to interconnect to ILEC's network in order to originate or terminate switched toll calls.
  - (6) "Special Access Services" are services providing an analog or digital transmission path that is not switched by a ILEC end office to directly connect an interexchange carrier's ("IXC's") terminal location and an end user's premises, two IXC terminal locations, an IXC terminal location and a hub, or two end user premises.
  - (7) "Local Access Services" allow competitive local exchange carriers ("CLECs") or other providers of local exchange services to complete local calls via the ILEC's network pursuant to the Telecommunications Act of 1996 ("the Act") through the interconnection of a CLEC's or other provider's network to the ILEC's network, through the resale by a CLEC of the ILEC's regulated retail services, or through the purchase by the CLEC of unbundled network elements ("UNEs") offered by the ILEC.
- K. "Marketing/Technical Trial" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by an ILEC to eligible customers on a trial basis in the ILEC's service area for technical and/or marketing purposes. Such trials shall be for the purpose of evaluating, in an operating environment, the performance and pricing of the specific service or services in conjunction with other marketing and environmental factors that can influence customer demand.
- L. "Metropolitan Statistical Area" ("MSA") is an area, as defined by the Office of Management and Budget, with a large population nucleus that together with adjacent communities, has a high degree of social and economic integration.
- M. "New Service" is a regulated function, feature, capability, or any combination thereof, which is not offered by the ILEC as of the effective date of this Plan.
- N. "Non-discretionary Retail Telecommunication Services" are those services for which the Commission limits the degree of regulatory discretion otherwise provided in the Plan for Retail Telecommunications Services.



- O. "Promotion" is the offering of a telecommunications service or combination of telecommunications services, to eligible customers in the ILEC's service area. The ILEC will only file promotions with the Commission for those services regulated by the Commission. However, the Company may market unregulated services in conjunction with a regulated promotional offering at its discretion. Customers subscribing to promotional offerings receive a one-time or short-term benefit that shall not exceed ninety (90) calendar days.
- P. "Retail Telecommunications Services" are the telecommunications services, other than Interconnection Services, which are offered by ILECs and regulated by the Commission.
- Q. "Telecommunications Service" is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used.
- R. The term "Tier" refers to a category of wire centers demonstrating similar levels of competitive activity and may include only a subcategory of service associated with a wire center (business or residential).
- S. Total Service Long Run Incremental Cost (TSLRIC) is the sum of the usage sensitive costs caused by the service and service-specific fixed costs. The sum of a company's TSLRICs and shared costs is equal to the total cost of the company.
- T. "Work Day" is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

### 3. COMPETITIVE CATEGORIES (TIERS)

For purposes of the Plan, each ILEC's service territory shall first be divided into geographical affiliation based on Metropolitan Statistical Areas ("MSAs"). However, the MSAs shall only be used as a guideline for assigning wire centers to a competitive Tier. Competitive activity and not geographical affiliation ultimately determines wire center assignment to one of three (3) Tiers. Each Tier will contain wire centers demonstrating similar competitive activity. Because competition for business telecommunication services can develop absent a similar level of competitive activity for residence service, a wire center may be assigned to one competitive Tier for business service and another for residential service. The ILEC shall request assignment of wire centers and provide justification for the proposed assignment. The Commission, however, will determine the initial classification of wire centers to each of the competitive Tiers. Additionally, on each anniversary of the Plan, the Commission may review and redefine the criteria used to assign wire centers to each of the competitive Tiers.

Initially, the following MSAs shall be designated as Tier I MSAs: Birmingham-Hoover, Mobile, Montgomery, and Huntsville. The remaining MSAs, Anniston, Auburn/Opelika, Columbus (Georgia), Decatur, Dothan, Florence, Gadsden, Pensacola (Florida), and Tuscaloosa, shall be designated as Tier II MSAs. The Non-MSA areas of the State shall be grouped together for regulatory purposes. Additional criteria for defining levels of competitive activity will be identified by the Commission and the Company and wire centers shall be assigned to Tier I, Tier II, or Tier III before the implementation of the Plan.

#### 4. CLASSIFICATION AND RECLASSIFICATION OF WIRE CENTERS

Factors upon which ILECs may request classification of wire centers into the competitive Tiers may include, but are not limited to, collocation arrangements, residential and/or business competitive market share, alternative sources of switching, alternative sources of transport, etc. Further, pricing and availability of competitive residential alternatives will be used to determine the classification of residential service in each wire center to a competitive category. ILECs will submit supporting documentation justifying the requested classification.

On each anniversary of the Plan, ILECs may file requests to reclassify Tier I, Tier II, or Tier III wire centers. ILECs shall file supporting documentation justifying the reclassification of wire centers to a different competitive Tier. Factors upon which ILECs may base its reclassification request are referenced in the preceding paragraph and must include a separate analysis for residential service.

#### 5. SERVICE CATEGORIES

Each telecommunications service offered by ILECs and regulated by the Commission shall be assigned to one of two (2) categories: (1) Retail; and (2) Interconnection Services.

#### 6. TARIFFS

ILECs shall file tariffs for all telecommunications services offered by ILEC and regulated by the Commission, except as specifically exempted herein. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (F) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion, the tariff in question may be suspended for up to ninety (90) days. If the Commission initiates an investigation based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff shall remain in effect pending completion of the investigation and hearing. In lieu of the suspension of proposed tariffs as the result of intervention by another party or the filing of a complaint by another party pursuant to §37-1-83 of the Code, the following procedures will be in effect.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party within sixty (60) days of the effective date of said tariff and orders a decrease in a price or prices contained therein, ILECs shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective, but not to exceed one-hundred, fifty (150) days.

- A. Tariffs proposing changes to terms or conditions for telecommunications services offered by ILECs and regulated by the Commission shall be filed with an Effective Date at least ten (10) work days following the File Date.
- B. Tariffs proposing price reductions for telecommunications services offered by ILECs and regulated by the Commission shall be filed with an Effective Date at least five (5) work days following the File Date.
- C. Tariffs proposing price increases for Retail Telecommunications Services<sup>2</sup>, Switched Access Services, or Special Access Services in Tier I shall be filed with an Effective Date at least five (5) work days following the File Date. Price increases for Retail Telecommunications Services, Switched Access Services, or Special Access Services in Tier II and Tier III shall be filed with an Effective Date at least ten (10) work days following the File Date.
- D. Tariffs proposing price increases for Non-discretionary Retail Telecommunication Services shall be filed with an Effective date at least thirty (30) work days following the File Date.
- E. Tariffs for New Services shall be filed with an Effective Date at least five (5) work days following the File Date.
- F. Tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least twenty-five (25) work days following the File Date. For tariffs that eliminate telecommunications services, the tariff shall provide customers no less than one hundred, eighty (180) calendar days following the Effective Date during which affected customers will be given the opportunity

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<sup>2</sup> Except those Retail Telecommunication Services listed as “Non-discretionary”.

- to subscribe to alternative services before a customer's current services are eliminated.
- G. ILECs will not market and/or advertise regulated services by a different name and/or rate structure than that included in the tariff on file with the Commission.

## 7. PRICING RULES

### A. Pricing Rules – General

- (1) The price for any new or existing service shall equal or exceed its TSLRIC unless: (1) specifically exempted by the Commission based on public interest concerns; or (2) the ILEC in good faith, and upon Commission approval, prices the service in order to meet the equally low price of a competitor.
- (2) In the event that the ILEC prices a service below TSLRIC to meet the equally low price of a competitor, any intrastate universal service fund which may exist cannot be utilized to offset the resulting revenue shortfall.
- (3) No price reductions that will result in prices below TSLRIC will be allowed unless approved by the Commission. No price reductions will be allowed for any existing services that are priced below TSLRIC on the effective date of this Plan, unless approved by the Commission.

### B. Pricing Rules – Retail Services

#### (1) FLAT-RATE RESIDENTIAL AND BUSINESS SERVICE

- a. Upon approval of this Plan for ILECs, prices for traditional flat-rate local exchange residential service (1FR service) and existing traditional flat-rate local exchange business service (1FB service), shall be capped at existing levels for two (2) years.
- b. Following the second and fourth anniversaries of this Plan, prices for 1FR and 1FB service may, at the discretion of the Company<sup>3</sup>, be increased by five percent (5%). However, the tariff price for 1FR service shall not exceed eighteen dollars (\$18) per month and the tariff price for 1FB service shall not exceed \$39.95 per month unless, following notice and hearing, specifically approved by the Commission. Price increases for 1FR/1FB service will only be authorized in those wire centers compliant with the Commission's service quality objectives set forth in this Plan (as

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<sup>3</sup> The Company has the discretion to apply rate increases by competitive Tier (e.g., increase Tier II and/or Tier III but not Tier I or apply the authorized 1FR increases but not 1FB increases, by Tier). Rates may also be decreased in one or more competitive sectors while increased in others. However, any unapplied increases will not be accumulated and applied at a later date.

of the applicable anniversary date referenced above). Otherwise, prices for 1FR/1FB service in those wire centers that fail to meet the service quality objectives will remain unchanged until found in compliance.

- c. Within 90 days following the sixth anniversary of the plan, the Commission will make a further assessment of 1FR and 1FB prices and may schedule future adjustments as deemed necessary.

## (2) NON-DISCRETIONARY RETAIL SERVICES

Non-Discretionary Retail Services will be identified in a Commission Workshop and will generally correspond with those Non-Discretionary Retail Services included in Part I of the TELCOM REG Plan. Prices for Non-discretionary Retail Telecommunication Services shall not be increased at the discretion of ILEC. The Company may request increases for prices of these services, on a case-by-case basis, in accordance with the filing requirements identified in part 6D of this Plan.

## (3) VERTICAL SERVICES

Upon approval of this Plan for ILEC, prices for all residential and business vertical services may be adjusted to the maximum existing price approved for BellSouth. Thereafter, the pricing rules in 7B(5) of this Plan apply for all vertical services except those identified below as Basic Vertical Services,.

## (4) BASIC VERTICAL SERVICES

Basic Vertical Services will be identified in a Commission Workshop and will generally coincide with those listed in Part I of the TELCOM REG Plan.

Following the second, fourth and sixth anniversaries<sup>4</sup> of the Plan, prices of Basic Vertical Services may be increased by a maximum of five percent (5%) per service.

## (5) OTHER RETAIL TELECOMMUNICATIONS SERVICES

Prices for other Retail Telecommunications Services (excluding Basic Vertical Services and Non-discretionary Retail Services) may be adjusted at the discretion of ILEC with the following limitations:

- a. Tier I increases shall be limited to fifteen percent (15%) per service annually.

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<sup>4</sup> Within 90 days following the sixth anniversary of the plan, the Commission will make a further assessment of prices for these selected services.

- b. Tier II increases shall be limited to ten percent (10%) annually per service.
- c. Tier III increases shall be limited to five (5%) annually per service.

C. Pricing Rules – Switched Access Services and Local Access Services

- (1) ILEC's combination of the traffic sensitive per minute charge for originating and terminating switched access service will be capped at the effective intrastate level (including any non-traffic sensitive rate elements) as of the date this Plan is implemented.
- (2) No intrastate access reduction will occur unless the subsidy to non-bundled, existing traditional flat-rate local exchange services for residential service provided by switched access is replaced by an end user charge, an increase in local service rates (in addition to those provided for in Part 7B of this Plan), or by the introduction of an intrastate universal service fund. The establishment of an end user charge or an intrastate universal service fund will only occur following notice and hearing.
- (3) Regarding Local Access Services, the resale discount applicable to ILEC's prices for standalone, regulated retail telecommunications services and terms, conditions, and prices for unbundled network elements will be formally reviewed and appropriately adjusted periodically following a hearing by the Commission.

8. CONTRACT SERVICE ARRANGEMENTS

- A. Customer-specific contract service arrangements ("CSAs") may be offered by the ILEC to customers in Tier I for any product or service provided by ILECs and regulated by the Commission. CSAs may be offered by ILECs to customers in Tier II and Tier III for any product or service provided by ILEC and regulated by the Commission in response to a competitive alternative or other unique circumstances.<sup>5</sup> Rates, terms, conditions, and additional regulations, if applicable, for the CSA will be developed on an individual case basis and will include all relevant costs, plus an appropriate level of contribution. Unless otherwise specified, regulations applicable to a CSA are in addition to the applicable rates and regulations specified in ILEC's tariffs.

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<sup>5</sup> As previously referenced, the term "other unique circumstances" is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

- B. Within five (5) work days following the effective date of a CSA in Tier I and Tier II, ILECs will provide pertinent details regarding the CSA for Commission review. For Tier III, ILECs will provide supporting details and documentation five (5) work days prior to the CSA effective date. ILECs will provide the Commission staff with access to detailed cost support for any CSA the staff chooses to review.
  - C. The Commission retains authority to investigate CSAs. Should any CSA be found in non-compliance with the requirements of 8A to this Plan and/or to be priced below the TSLRIC price floor without the Commission's prior approval, the Commission may take remedial action to include suspending, for any period deemed appropriate by the Commission, the CSA provisions of this Plan for the ILEC.
  - D. If the Commission staff determines that further investigation is necessary for CSAs offered in Tier III, the Company will be notified prior to the effective date and will delay implementation for no more than ten (10) work days pending an investigation. If the Commission has not denied the request within ten (10) work days following the proposed effective date, approval will become effective the succeeding work day. Denial will consist of a verbal notification to the Company followed by a written Commission Order<sup>6</sup>. The Commission may also notify the Company anytime within the investigatory period that the request is acceptable and approval will become effective upon that notification.
9. PROMOTIONS, CUSTOMER VALUE PROGRAMS, MARKETING/TECHNICAL TRIALS, & BUNDLED SERVICES

A. General

The following rules apply to all Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings submitted for the Commission's consideration.

- (1) A transmittal letter shall be provided to the Commission no later than three (3) work days prior to the proposed effective date for Tier I and Tier II and no later than five (5) work days prior to the proposed effective date for Tier III. All supporting documentation will be available on the Company's publicly accessible Internet web pages on the date the aforementioned transmittal letter is provided to the Commission. A URL to the supporting documentation will be included in the transmittal letter and a hyperlink for same forwarded, via email, to the Commission's Telecommunications Division. Alternatively, ILECs may submit electronic supporting documentation with the transmittal

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<sup>6</sup> If the Company voluntarily withdraws the request, the requirement for a written Order disapproving the request is waived.

letter to the Commission and will include, via email, a copy to the Commission's Telecommunications Division by no later than the date the transmittal letter is filed with the Commission. Information concerning the filing and the supporting documentation (or a hyperlink to the supporting documentation on the ILEC's web pages) will be posted to the Commission's web site. Cost support will be available to the Commission Staff upon request.

- (2) If the Commission staff determines that further investigation is necessary, the Company will be notified prior to the effective date and will delay implementation for no more than five (5) work days pending an investigation. If the Commission has not denied the request within five (5) work days following the proposed effective date, approval will become effective the succeeding work day. Denial will consist of a verbal notification to the Company followed by a written Commission Order<sup>7</sup>. The Commission may also notify the Company anytime within the investigatory period that the request is acceptable and approval will become effective upon that notification.

#### B. Promotions

Subject to the availability of products, services, and facilities, Promotions will be available to all subscribers meeting the eligibility criteria as set forth in the Promotion. The following supporting documentation must be provided for the promotion:

- (1) A description of the Promotion (including terms and conditions);
- (2) A description of the geographic area in which the Promotion will be offered;
- (3) The eligibility criteria for the Promotion;
- (4) The marketing period (beginning and ending dates);
- (5) The services included in the Promotion; and,
- (6) Availability for resale.

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<sup>7</sup> If the Company voluntarily withdraws the request, the requirement for a written Order disapproving the request is waived.



### C. Customer Value Programs:

Customer Value Programs (CVPs) will be available on a non-discriminatory basis to all subscribers meeting the eligibility criteria for each Program. The following supporting documentation must be provided for the CVP:

- (1) A description of the CVP (including terms and conditions);
- (2) A description of the geographic area in which the CVP will be offered;
- (3) The eligibility criteria for the CVP;
- (4) The marketing period (beginning and ending dates); and,
- (5) Availability for resale.

### D. Marketing/Technical Trials

The following supporting documentation must be included must be provided for all Marketing/Technical Trials:

- (1) A description of the parameters of the Trial (including terms and conditions);
- (2) A description of the geographic area in which the Trial will be offered; and,
- (3) The rates and charges for the Trial, including any applicable range of rates within which the rates may be increased or decreased.

Marketing/Technical Trials may be offered for not less than one (1) month or not more than twelve (12) months.

### E. Bundled Services<sup>8</sup>

Subject to the availability of products, services, and facilities, Bundled Services will be available to all subscribers meeting the eligibility criteria for such Bundled Services. The Company may, at its discretion, market unregulated services as an “add on” to an approved regulated bundle at any price exceeding the Commission approved price for the regulated service bundle. Nevertheless, the regulated services bundle must be made available to qualified customers, on a non-discriminatory basis, at their request. Bundled regulated services shall be available for resale.

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<sup>8</sup> Existing rules and regulations, such as those involving bill payment, the allocation of payments between regulated and nonregulated services, and discontinuance of service for non-payment, remain in effect when customers subscribe to Bundled Services, unless and until modified by the Commission.

The following supporting documentation must be provided for all Bundled Service offerings:

- (1) A description of the Bundled Service (including terms and conditions);
- (2) A description of the geographic area in which the Bundled Service will be offered;
- (3) The eligibility criteria for the Bundled Service;
- (4) The marketing period (beginning and ending dates).
- (5) Availability for resale.

## 10. SERVICE QUALITY

- A. ILECs will conform to the service standards outlined in Section T-21 of the Commission's Telephone Rules. The Commission may require submission of reports and data as it deems necessary to monitor service performance.
- B. The Commission may, after notice and hearing, require ILECs to credit customer bills for 1FR/1FB<sup>9</sup> service in wire centers that fail to achieve the Commission's service quality objectives. The amount of the credit shall not exceed 15% of the monthly 1FR/1FB rate for a period to be determined by the Commission.

## 11. CUSTOMER NOTIFICATION

- A. ILECs will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and the ILEC will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

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<sup>9</sup> In addition to 1FR/1FB service, the credit applies to all other local calling plans. However, the amount of the credit applied to other local calling plans is based on the tariff rate for 1FR/1FB service.

## 12. REPORTING & FILING REQUIREMENTS

- A. ILECs will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). ILECs will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, ILECs will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a monthly basis, ILECs will report the number and type of access lines (residence/business) served in each wire center.
- C. On a monthly basis, ILECs will report the customer name and location of pay phone service provider (PSP) and shared tenant service (STS) access lines served by the ILEC in each wire center.
- D. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

## 13. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

## 14. COMMISSION REVIEW

The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.

The Commission may not modify or repeal any portion of this Plan without notice and hearing. ILECs or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.

## **PART IV**

### **CLEC PRICE FLEXIBILITY PLAN**

#### **1. APPLICABILITY OF THE CLEC PRICE FLEXIBILITY PLAN**

The Staff Proposed CLEC Price Flexibility Plan (the “CLEC Plan” or the “Plan”) for Competitive Local Exchange Carriers (“CLECs”) applies to all telecommunications services offered by CLECs and regulated by the Commission.

#### **2. DEFINITIONS**

- A. “Bundled Services” are packages of regulated services offered by the CLEC at one price. Requests to bundle services shall only consist of regulated services and the associated price for the bundled regulated services.
- B. “Contract Service Arrangement” (“CSA”) is an arrangement wherein CLEC provides services pursuant to a contract between the CLEC and customers. Such arrangements include situations in which the services are not otherwise available through CLEC’s tariffs, as well as situations in which the services are available through CLEC’s tariffs, but the CLEC offers those services at prices other than those specified in CLEC’s tariffs.
- C. “Customer Value Program” is the offering of volume and/or term discounts by the CLEC to eligible customers in the CLEC’s service area. Customers subscribing to such programs will receive ongoing benefits for a duration that may exceed ninety (90) calendar days.
- D. “Effective Date” is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- E. “Eligibility Criteria” are the factors used to determine the customers and/or potential customers who would qualify for a Promotion, Customer Value Program, Marketing/Technical Trial, or Bundled Service: i.e., current services or services a customer must subscribe to, monthly spend, service or usage volume, term commitment, geographic location, such as wire center, and/or any other identifiable characteristic.
- F. “File Date” is the official date recorded by the office of the Director of the Commission’s Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.

- G. “Marketing/Technical Trial” is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by a CLEC to eligible customers on a trial basis in the CLEC’s service area for technical and/or marketing purposes. Such trials shall be for the purpose of evaluating, in an operating environment, the performance and pricing of the specific service or services in conjunction with other marketing and environmental factors that can influence customer demand.
- H. “New Service” is a regulated function, feature, capability, or any combination thereof, which is not offered by the CLEC as of the effective date of this Plan.
- I. “Non-discretionary Retail Telecommunication Services” are those services for which the Commission limits the degree of regulatory discretion otherwise provided in the Plan for Retail Telecommunications Services.
- J. “Promotion” is the offering of a telecommunications service or combination of telecommunications services, to eligible customers in the CLEC’s service area. The CLEC will only file promotions with the Commission for those services regulated by the Commission. However, the Company may market unregulated services in conjunction with a regulated promotional offering at its discretion. Customers subscribing to promotional offerings receive a one-time or short-term benefit that shall not exceed ninety (90) calendar days.
- K. “Retail Telecommunications Services” are the telecommunications services, other than Interconnection Services, which are offered by the CLEC and regulated by the Commission.
- L. “Telecommunications Service” is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used.
- M. The term “Tier” refers to a category of wire centers demonstrating similar levels of competitive activity and may include only a subcategory of service associated with a wire center (business or residential).
- N. Total Service Long Run Incremental Cost (TSLRIC) is the sum of the usage sensitive costs caused by the service and service-specific fixed costs. The sum of a company’s TSLRICs and shared costs is equal to the total cost of the company.
- O. “Work Day” is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

### 3. TARIFFS

CLECs shall file tariffs for all telecommunications services offered by the CLEC and regulated by the Commission, except as specifically exempted herein. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (F) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion, the tariff in question may be suspended for up to ninety (90) days. If the Commission initiates an investigation based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff shall remain in effect pending completion of the investigation and hearing. In lieu of the suspension of proposed tariffs as the result of intervention by another party or the filing of a complaint by another party pursuant to §37-1-83 of the Code, the following procedures will be in effect.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party within sixty (60) days of the effective date of said tariff and orders a decrease in a price or prices contained therein, CLECs shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective, but not to exceed one-hundred, fifty (150) days.

- A. Tariffs proposing changes to terms or conditions for telecommunications services offered by CLECs and regulated by the Commission shall be filed with an Effective Date at least ten (10) work days following the File Date.
- B. Tariffs proposing price reductions for telecommunications services offered by CLECs and regulated by the Commission shall be filed with an Effective Date at least five (5) work days following the File Date.
- C. Tariffs proposing price increases for Retail Telecommunications Services<sup>1</sup>, Switched Access Services, or Special Access Services in Tier I shall be filed with an Effective Date at least five (5) work days following the File Date. Price increases for Retail Telecommunications Services, Switched Access Services, or Special Access Services in Tier II and Tier III shall be filed with an Effective Date at least ten (10) work days following the File Date.

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<sup>1</sup> Except those Retail Telecommunication Services listed as “Non-discretionary”.

- D. Tariffs proposing price increases for Non-discretionary Retail Telecommunication Services shall be filed with an Effective date at least thirty (30) work days following the File Date.
- E. Tariffs for New Services shall be filed with an Effective Date at least five (5) work days following the File Date.
- F. Tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least twenty-five (25) work days following the File Date. For tariffs that eliminate telecommunications services, the tariff shall provide customers no less than one hundred, eighty (180) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer's current services are eliminated.
- G. CLECs will not market and/or advertise regulated services by a different name and/or rate structure than that included in the tariff on file with the Commission.

#### 4. PRICING RULES

##### Pricing Rules – General

- (1) The price for any new or existing service shall equal or exceed its TSLRIC unless: (1) specifically exempted by the Commission based on public interest concerns; or (2) the CLEC in good faith, and upon Commission approval, prices the service in order to meet the equally low price of a competitor.
- (2) No price reductions that will result in prices below TSLRIC will be allowed unless approved by the Commission. No price reductions will be allowed for any existing services that are priced below TSLRIC on the effective date of this Plan, unless approved by the Commission.

##### Pricing Rules – Retail Services

##### (1) NON-DISCRETIONARY RETAIL SERVICES

Non-Discretionary Retail Services will be identified in a Commission Workshop and will generally correspond with those Non-Discretionary Retail Services included in Part I of the TELCOM REG Plan. Prices for Non-discretionary Retail Telecommunication Services shall not be increased at the discretion of CLEC. The Company may request increases for prices of these services, on a case-by-case basis, in accordance with the filing requirements identified in part 6D of this Plan.

## (2) OTHER RETAIL TELECOMMUNICATIONS SERVICES

Prices for other Retail Telecommunications Services (excluding Non-discretionary Retail Services) may be adjusted at the discretion of the CLEC.

## 5. CONTRACT SERVICE ARRANGEMENTS

- A. CLEC CSAs shall comply with the rules for the ILEC service area wherein the affected CLEC customers are located (Part I or Part III of this plan, whichever applies).
- B. The Commission retains authority to investigate CSAs. Should any CSA be found in non-compliance with the requirements of 8A to this Plan and/or to be priced below the TSLRIC price floor without the Commission's prior approval, the Commission may take remedial action to include suspending, for any period deemed appropriate by the Commission, the CSA provisions of this Plan for the CLEC.

## 6. PROMOTIONS, CUSTOMER VALUE PROGRAMS, MARKETING/TECHNICAL TRIALS, & BUNDLED SERVICES

CLECs shall comply with the rules for the ILEC service area wherein the affected CLEC customers are located (Part I or Part III of this plan, whichever applies)

## 7. SERVICE QUALITY

- A. CLECs will conform to the service standards outlined in Section T-21 of the Commission's Telephone Rules. The Commission may require submission of reports and data as it deems necessary to monitor service performance.
- B. The Commission may, after notice and hearing, require CLECs to credit customer bills for 1FR/1FB<sup>2</sup> for facilities-based CLEC service that fails to achieve the Commission's service quality objectives. The amount of the credit shall not exceed 15% of the monthly 1FR/1FB rate for a period to be determined by the Commission.

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<sup>2</sup> In addition to 1FR/1FB service, the credit applies to all other local calling plans. However, the amount of the credit applied to other local calling plans is based on the tariff rate for 1FR/1FB service.



## 8. CUSTOMER NOTIFICATION

- A. CLECs will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and CLEC will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

## 9. REPORTING & FILING REQUIREMENTS

- A. CLECs will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). CLECs will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, CLECs will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a monthly basis, CLECs will report the number of access lines served in each ILEC wire center.
- C. On a monthly basis, CLECs will report the customer name and location of pay phone service provider (PSP) and shared tenant service (STS) access lines served in each ILEC wire center.
- D. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

## 10. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

**11. COMMISSION REVIEW**

- A. The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.
- B. The Commission may not modify or repeal any portion of this Plan without notice and hearing. CLECs or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.

## **PART V**

### **TOLL SERVICE PROVIDER STREAMLINED REGULATION PLAN**

#### **APPLICABILITY OF THE TOLL SERVICE PROVIDER STREAMLINED REGULATION**

The Staff Proposed Toll Service Provider Streamlined Regulation Plan (the “Toll Provider Plan” or the “Plan”) for Inter-exchange Toll Carriers (“IXCs”) and toll resellers applies to all telecommunications services offered by toll providers and regulated by the Commission.

#### **DEFINITIONS**

- A. “Effective Date” is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- B. “File Date” is the official date recorded by the office of the Director of the Commission’s Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- C. “New Service” is a regulated function, feature, capability, or any combination thereof, which is not offered by the toll provider as of the effective date of this Plan.
- D. “Work Day” is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

#### **3. TARIFFS**

Toll providers shall file tariffs for all telecommunications services offered by the toll provider and regulated by the Commission, except as specifically exempted herein. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (B) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion, the tariff in question may be suspended for up to ninety (90) days. If the Commission initiates an investigation based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff shall remain in effect pending completion of the investigation and hearing. In lieu of the suspension of proposed tariffs as the result of intervention by another party or the filing of a complaint by another party pursuant to §37-1-83 of the Code, the following procedures will be in effect.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party within sixty (60) days of the effective date of said tariff and orders a decrease in a price or prices contained therein, toll providers shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective, but not to exceed one-hundred, fifty (150) days.

- A. Tariffs proposing changes to terms or conditions, for new services, for rate changes associated with existing telecommunications services offered by toll providers and regulated by the Commission, and tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least one (1) work day following the File Date.
- B. Tariffs that grandfather and/or eliminate telecommunications services shall provide customers no less than thirty (30) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer's current services are eliminated.
- C. Toll providers will not market and/or advertise regulated services by a different name and/or rate structure than that included in the tariff on file with the Commission.

#### 4. CUSTOMER NOTIFICATION

- A. Toll providers will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and toll providers will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

## 5. REPORTING & FILING REQUIREMENTS

- A. Toll providers will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). Toll providers will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, toll providers will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a quarterly basis, toll providers will report the customer name and service location of pay phone service provider (PSP), shared tenant service (STS) and Hotel/Motel service customers in Alabama wherein the toll provider serves as the underlying toll carrier.
- C. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

## 6. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

## 7. COMMISSION REVIEW

- A. The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.
- B. The Commission may not modify or repeal any portion of this Plan without notice and hearing. Toll providers or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.